

Assembly Bill No. 1844

CHAPTER 618

An act to add Chapter 2.5 (commencing with Section 980) to Part 3 of Division 2 of the Labor Code, relating to employment.

[Approved by Governor September 27, 2012. Filed with Secretary of State September 27, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1844, Campos. Employer use of social media.

Existing law generally regulates the conduct of employers in the state.

This bill would prohibit an employer from requiring or requesting an employee or applicant for employment to disclose a username or password for the purpose of accessing personal social media, to access personal social media in the presence of the employer, or to divulge any personal social media. This bill would also prohibit an employer from discharging, disciplining, threatening to discharge or discipline, or otherwise retaliating against an employee or applicant for not complying with a request or demand by the employer that violates these provisions.

Under existing law, the Labor Commissioner, who is the Chief of the Division of Labor Standards Enforcement in the Department of Industrial Relations, is required to establish and maintain a field enforcement unit to investigate specified violations of the Labor Code and other labor laws and to enforce minimum labor standards. Existing law authorizes, and under specified circumstances requires, the Labor Commissioner to investigate employee complaints of violations of the Labor Code, provide for a hearing, and determine all matters arising under his or her jurisdiction.

This bill would provide that the Labor Commissioner is not required to investigate or determine any violation of a provision of this bill.

The people of the State of California do enact as follows:

SECTION 1. Chapter 2.5 (commencing with Section 980) is added to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 2.5. EMPLOYER USE OF SOCIAL MEDIA

980. (a) As used in this chapter, "social media" means an electronic service or account, or electronic content, including, but not limited to, videos, still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or Internet Web site profiles or locations.

(b) An employer shall not require or request an employee or applicant for employment to do any of the following:

(1) Disclose a username or password for the purpose of accessing personal social media.

(2) Access personal social media in the presence of the employer.

(3) Divulge any personal social media, except as provided in subdivision (c).

(c) Nothing in this section shall affect an employer's existing rights and obligations to request an employee to divulge personal social media reasonably believed to be relevant to an investigation of allegations of employee misconduct or employee violation of applicable laws and regulations, provided that the social media is used solely for purposes of that investigation or a related proceeding.

(d) Nothing in this section precludes an employer from requiring or requesting an employee to disclose a username, password, or other method for the purpose of accessing an employer-issued electronic device.

(e) An employer shall not discharge, discipline, threaten to discharge or discipline, or otherwise retaliate against an employee or applicant for not complying with a request or demand by the employer that violates this section. However, this section does not prohibit an employer from terminating or otherwise taking an adverse action against an employee or applicant if otherwise permitted by law.

SEC. 2. Notwithstanding any other provision of law, the Labor Commissioner, who is Chief of the Division of Labor Standards Enforcement, is not required to investigate or determine any violation of this act.